

1 GAIL C. TRABISH, ESQ. (#103482)
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9 Attorneys for Defendant
10 TARGET STORES, a division
11 of Target Corporation, erroneously
12 sued herein as Target Corporation

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 JANINE FUJIOKA,

16 Plaintiff,

17 vs.

18 VINTAGE OAKS SHOPPING CENTER;
19 JAMES CAMPBELL COMPANY, LLC;
20 TARGET CORPORTION; and DOES 1-50,
21 inclusive,

22 Defendants.

Case No. **BZ**
C 07 4393

[San Francisco County Superior Court Case
No.: CGC-07-465141]

**ANSWER TO UNVERIFIED
COMPLAINT**

Complaint Filed: July 13, 2007

23 COMES NOW Defendant TARGET STORES, a division of Target Corporation,
24 erroneously sued herein as Target Corporation, and for its answer to the complaint of plaintiff
25 JANINE FUJIOKA, on file herein, admits, denies and alleges the following:

26 **GENERAL ALLEGATIONS**

27 1. Answering paragraph 3, this answering defendant states that it has no information
28 or belief concerning the subjects of the allegations therein sufficiently enabling it to answer said
paragraph, and on that ground, denies each and every, all and singular, generally and specifically,
the allegations contained therein.

2. Answering paragraph 5(a) and (c), this answering defendant states that it has no
information or belief concerning the subjects of the allegations therein sufficiently enabling it to
answer said paragraph, and on that ground, denies each and every, all and singular, generally and

1 specifically, the allegations contained therein. As to paragraph 5(b), this answering defendant
2 admits that Target Stores is a division of Target Corporation, and is a Minnesota corporation
3 whose principal place of business is in Minnesota.

4 3. Answering the allegation in paragraph 6(a), this answering defendant states that it
5 has no information or belief concerning the subjects of the allegations therein sufficient to enable it
6 to answer said paragraph, and on that ground, denies each and every, all and singular, generally
7 and specifically, the allegations contained therein.

8 4. Answering the allegation in paragraph 8(a), this answering defendant denies that the
9 Superior Court of San Francisco is the proper court.

10 5. Answering paragraph 10, this answering defendant admits that there are two (2)
11 causes of action for Premises Liability and General Negligence attached.

12 6. Answering paragraph 11(a), (c), (d) and (f), this answering defendant denies each
13 and every allegation contained therein.

14 7. Answering paragraph 14, this answering defendant denies each and every allegation
15 contained therein.

16 **FIRST CAUSE OF ACTION – General Negligence**

17
18 8. Answering paragraph GN-1, this answering defendant denies each and every
19 allegation contained therein.

20 **SECOND CAUSE OF ACTION – Premises Liability**

21 9. Answering paragraph Prem. L-1, this answering defendant denies each and every
22 allegation contained therein.

23 10. Answering paragraph Prem. L-2, this answering defendant denies each and every
24 allegation contained therein.

25 11. Answering paragraph Prem. L-3, this answering defendant denies each and every
26 allegation contained therein.

27 12. Answering paragraph Prem. L-4, this answering defendant denies each and every
28 allegation contained therein.

1 13. Answering paragraph Prem. L-5, this answering defendant denies each and every
2 allegation contained therein.

3 **DEMAND FOR JURY TRIAL**

4 This answering defendant demands a jury trial.

5 **AFFIRMATIVE DEFENSES**

6 **COMES NOW**, Defendant TARGET STORES, a division of Target Corporation,
7 erroneously sued herein as Target Corporation, and for its answer to the complaint of plaintiff on
8 file herein alleges as follows:

9 **AS A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**
10 **VERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**
11 **THEREOF**, this answering defendant is informed and believes and thereon alleges that neither the
12 complaint nor any of its alleged causes of action states facts sufficient to constitute a cause of
13 action against this answering defendant.

14 **AS A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**
15 **VERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**
16 **THEREOF**, this answering defendant is informed and believes and thereon alleges that plaintiff
17 failed to mitigate her alleged damages as required by law.

18 **AS A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**
19 **VERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**
20 **THEREOF**, this answering defendant is informed and believes and thereon alleges that plaintiff
21 was comparatively at fault in the manner and style as set forth in the case of *Li v. Yellow Cab Co.*
22 (1975) 13 Cal.3d 804, and defendant prays that any and all damages sustained by said plaintiff be
23 reduced by the percentage of her negligence.

24 **AS A FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**
25 **VERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**
26 **THEREOF**, this answering defendant is informed and believes and thereon alleges that the
27 damages complained of, if any there were, were proximately contributed to or caused by the
28

1 carelessness, negligence, fault or defects created by the remaining parties in this action, or by other
2 persons, corporations or business entities unknown to this answering defendant at this time, and
3 were not caused in any way by this answering defendant, or by persons for whom this answering
4 defendant is legally liable.

5 Should this answering defendant be found liable to plaintiff, which liability is expressly
6 denied, said defendant is entitled to have this award against it abated, reduced or eliminated to the
7 extent that the negligence, carelessness, fault or defects created by the remaining parties in this
8 action, or by said other persons, corporations or business entities, contributed to plaintiff's
9 damages, if any.

10 **AS A FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**
11 **VERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**
12 **THEREOF**, this answering defendant is informed and believes and thereon alleges that plaintiff
13 knew, or in the exercise of ordinary care should have known, of the risks and hazards involved in
14 the undertaking in which she was engaged, but nevertheless and knowing these things, did freely
15 and voluntarily consent to assume all the risks and hazards involved in the undertaking.

16 **WHEREFORE**, this answering defendant prays as follows:

- 17 1. That plaintiff take nothing by her complaint and that this answering defendant be
18 dismissed hence;
- 19 2. For reasonable attorneys' fees;
- 20 3. For costs of suit incurred herein; and
- 21 4. For such other and further relief as the Court deems fit and proper.

22 DATED: August 24, 2007

BOORNAZIAN, JENSEN & GARTHE
A Professional Corporation

24 By: 

25 GAIL C. TRABISH, ESQ.

26 Attorneys for Defendant

27 TARGET STORES, a division of
28 Target Corporation, erroneously sued
herein as Target Corporation

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CERTIFICATE OF SERVICE
(28 U.S.C. §1746)

I am employed in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 555 12th Street, Suite 1800, P. O. Box 12925, Oakland, California 94604-2925.

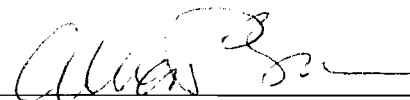
I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the date indicated below, at the above-referenced business location, I sealed envelopes, enclosing a copy of the **ANSWER TO UNVERIFIED COMPLAINT**, addressed as shown below, and placed them for collection and mailing following ordinary business practices to be deposited with the United States Postal Service on the date indicated below:

Matthew D. Davis, Esq.
Doug Saeltzer, Esq.
Walkup Melodia Kelly Wecht &
Schoenberg
650 California Street, 26th Floor
San Francisco, CA 94108
(415) 981-7210 Phone
(415) 391-6965 Fax

Attorneys for Plaintiff

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Oakland, California, on August 24, 2007.



Alexine L. Braun

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